2024

POST Guidelines

Elder and Dependent Adult Abuse

Senior and Disability Justice Act

CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

© 2021 by California Commission on Peace Officer Standards and Training

Published September 10, 2021, Revised March 2024

Revised January 2024

All rights reserved. This publication may not be reproduced, in whole or in part, in any form or by any means electronic or mechanical or by any information and retrieval system now known or hereafter invented, without prior written permission of the California Commission on Peace Officer Standards and Training, with the following exception:

California law enforcement agencies in the POST peace officer program and POST-certified training presenters are hereby given permission by POST to reproduce any or all of the contents of this manual for their internal use within their agency or presentation location.

All other individuals, private businesses and corporations, public and private agencies and colleges, professional associations and non-POST law enforcement agencies in state or out-of-state may print or download this publication for non-commercial use.

Infringement of the copyright protection law and the provisions expressed here and on the POST website under *Copyright/Trademark Protection* will be pursued in a court of law. Questions about copyright protection of this publication and exceptions may be directed to the *Publications Manager*.

POST Mission Statement

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

POST COMMISSIONERS

CHAIR
Geoff Long
Public Member

VICE CHAIR
Rick Braziel
Educator, Humboldt State University

Rob Bonta
Ex-Officio Member
Attorney General, Department of Justice

Alan Barcelona
Special Agent, Department of Justice

Ingrid Braun
Sheriff, Mono County

Jim Cooper
Sheriff, Sacramento County

P. Lamont Ewell
Public Member

Kelly Gordon
Chief, Santa Barbara Police Department

Tina Nieto
Sheriff, Monterey County

Michelle Rodriguez
Public Member

Acknowledgement

This document represents the collective effort of individuals from several organizations, agencies and communities. The content contained herein does not necessarily represent the viewpoint or position of every advisor or author however, it does represent the diverse perspectives and meaningful dialogue that is necessary to come together in a collaborative and respectful process.

Project Advisors

Scott Pirrello, *Deputy District Attorney, San Diego District Attorney's Office*

Paul Greenwood, D*eputy District Attorney, San Diego District Attorney's Office (Retired)*

Stephen Dale, LL.M, *Trustee- Golden State Pooled Trust*

Greg deGiere, *Disability Rights Advocate, California ARC*

Michelle Hendricks, *Sergeant, Sacramento County Sheriff's Office (Retired)*

Sue Jackson, *Attorney II, Lexipol*

William Longan, *Sergeant, Orange County Sheriff-Coroner Department*

Natasha Rangel, *Assistant Public Administrator, Riverside County Sheriff- Coroner/Public Administrator*

Julie Schoen, JD, *Deputy Director National Center on Elder Abuse, Keck School of Medicine, University of Southern California*

Project Facilitator/Writer

Deborah Varon, *Sergeant II, Curriculum Design and Development Unit, Los Angeles Police Department (Retired)*

TABLE OF CONTENTS

PURPOSE 7
LEGISLATIVE INTENT 7
HISTORY 8
POLICY 9
- Policy Introduction 9
- Agency Chief Executive 9
- Agency Protocols 10
- Specified Agency Staff - Identification of Roles and Responsibilities 10
- Policy Dissemination 10
- Adherence to Policy 11
- Exception to the Policy 11
- Agency Liaison 11
- Mandatory Investigation 11
- Arrest Policy 12
- Emergency Protective Orders (EPO) and Other Protective Orders 12
  - *Removal of Firearms 12*
- First Responders Responsibilities 13
  - *Interviews 13*
  - *Preliminary Investigation 13*
  - *Hate Crimes 14*
  - *Domestic Violence 14*
  - *Sex Crimes 14*
- First Responders Checklist 14
- Suspicious Death/Homicide 15
- Cross Reporting Requirements 15
- Mandated Reporting Requirements 15
- Investigator's Responsibilities 16
  - *Elements of the Investigation 16*
- Case Submission 17
- Training 17

REQUIRED POLICY APPENDIX 19
DEFINITIONS and REFERENCES 19
RESOURCES 30

PURPOSE

On October 08, 2019, Senate Bill (SB) 338 was chaptered. It requires local law enforcement agencies, upon the next policy revision process on or after April 13, 2021, to adopt or revise their policy regarding elder or dependent adult abuse or senior victimization to include specific provisions related to enforcement and training. SB 338 amends California Penal Code (PC) section 368.5, adds section 368.6, and amends Welfare and Institution Code (WIC) section 15650. See below:

- PC § 368.5 – The passage of SB 1123, chaptered September 29, 2000, builds on SB 338. The section has been amended to reference Welfare and Institutions Code Article 2 (commencing with WIC §15610) of Chapter 11 of Part 3 of Division for the definitions of abandonment, abduction, financial abuse, goods, and services to avoid physical harm or mental suffering, isolation, mental suffering, neglect, and abuse. Refer to Definition and Reference section for definitions.
- PC § 368.6 - This is a new section which is known as the "Senior and Disability Justice Act." This section provides definitions and references. In addition, it specifies what each municipal police department and county sheriff's department must include in their updated or adopted policy related to elder and dependent adult abuse on or after April 13, 2021.
- Assembly Bill (AB) 751, Chaptered June 29, 2023, clarifies that a municipal police department or county sheriff's department that has followed the requirements of SB 1123, does so in the future, or makes any other revision in its policy manual is also required to include the 28 specified items in a senior and disability victimization policy, originally enacted by SB 338. This requirement effectively covers every municipal police department and county sheriff's department. WIC § 15650 paragraph (g) was added which reads: The responsibilities and jurisdiction granted by this section to the entities described in subdivision (a) to (d) inclusive, are subject to the responsibility and jurisdiction granted pursuant to Section 368.5 of the Penal Code. The legislature finds and declares that this subdivision is declaratory of existing law. Entities include the bureau, law enforcement agency, long-term care ombudsman program, county adult protective services, licensing agencies, and the State Department of State Hospitals, and the State Department of Developmental Services.

The purpose of this guideline is to provide direction for California law enforcement agencies when developing new or updating existing policy regarding elder or dependent adult abuse or senior and disability victimization. Disability victimization impacts both adults and children. The guideline is meant to provide information and recommendations to assist in policy development and revisions.

LEGISLATIVE INTENT

The intent of the legislation is to draw attention of law enforcement agencies and the public to the wide extent of abuse, sexual assault, hate crimes, domestic violence, human trafficking, and other serious crimes against adults and children with disabilities, including disabilities caused by advanced age.

The importance of reinforcing that elder abuse and dependent adult abuse is a crime and not merely a civil matter is key to effective enforcement. Also, to increase respect for and protection of people with disabilities, the legislation clarifies the statutory terms "dependent adult" and "dependent person" and extends legal protections to people with disabilities regardless if they live independently. Local law

enforcement agencies and state law enforcement agencies have concurrent jurisdiction to investigate elder and dependent adult abuse and all other crimes against elderly victims and victims with disabilities. In order to address the ongoing issues, municipal police departments and county sheriff's departments are effectively mandated to adopt comprehensive policies concerning the crimes, including effective, accountable, and locally developed protocols for carrying out agency responsibilities. To reach this goal, agencies with overlapping responsibilities need to build greater cooperation and collaboration for response to, and investigation of, these crimes. Multi-agency partnership promotes skills, knowledge, and expertise in handling these crimes, although it should be reinforced that law enforcement agencies retain exclusive responsibility for the criminal investigation.

Additionally, it is the intent of the legislation and a requirement for law enforcement agencies to list, in one place, all of the law enforcement agency's statutory powers and responsibilities relevant to protecting elders, as well as adults and children with disabilities, while making no changes in these powers and responsibilities.

> ***Recommendation:*** The list can be in addition to an agency's current tracking of manuals or as a standalone document or manual. Each agency should determine what is most effective for their organization.

SB 338 Senior and Disability Justice Act has identified specific protocols that, with the enactment of SB 338 and SB 751, each municipal police department and county sheriff's office is effectively required to develop and include in its policy. See Required Policy Appendix for a list of the required agency protocols. The requirements begin in this document at the Agency Chief Executive section.

HISTORY

The Legislature finds and declares that elders, adults whose physical or mental disabilities or other limitations restrict their ability to carry out normal activities or to protect their rights, and adults admitted as inpatients to a 24-hour health facility, deserve special consideration and protection. The Legislature also finds that elder and dependent adult abuse and crimes against people with disabilities are serious crimes against society that adversely affect the lives of all who are exposed to it.

The statistics referenced below come from a variety of research using varying methods and geographic settings. The figures cited are likely to be undercounted because they are derived from various sources including the National Crime Victimization Survey, which omits crimes in group homes, hospitals, and other institutions. Agencies should be aware of and consider the following information listed in the bill:

- Those with a disability have a greater risk of falling victim to intimate partner violence.
- The reported rate of serious violent victimization of people with disabilities 12 years of age and above, including disabilities caused by advanced age, is more than 3.4 times likelier than those with no disabilities. For those with cognitive disabilities including intellectual disabilities and dementia, the rate is more than 5.5 times more likely than those with no disabilities.
- The reported rate of rape and sexual assault of people with disabilities 12 years of age and above is 3.5 times more likely than those without disabilities. The rate for people with intellectual disabilities is seven times more than those with no disabilities.

- Crimes motivated by bias against people with disabilities, including disabilities caused by advanced age, have been justifiably called invisible hate crimes. Victims report an estimated 40,000 anti-disability hate crimes per year nationally; however, the actual number reported to law enforcement agencies is less than 100. More specifically, in 2019, California law enforcement agencies reported only ten anti-disability hate crimes.
- More than 60.4 percent of violent crimes against people with disabilities 12 years of age and above are reportedly committed by perpetrators the victim knows, often including both paid and unpaid caretakers.

> ***Recommendation:*** When agency training is developed, the current information listed above would be beneficial to include. If statistics are listed, they will need to be regularly updated to ensure the most current information is included in the training.

POLICY

Policy Introduction

To effectively develop protocols to address the ongoing issue of crimes against seniors and persons with disabilities, the policy introduction shall include information on the wide prevalence of this victimization. This victimization includes elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers.

The policy introduction shall include a statement of the agency's commitment to providing equal protection and demonstrating respect for and protection of people with disabilities by conscientiously enforcing all criminal laws protecting:

- Elders 65 years and older
- Adults with disabilities who are 18-64 years old
- Children with disabilities

It is recommended the policy introduction include information regarding continuous improvement to ensure the policy and the included protocols are current and regularly updated. Upon development by POST, the Elder and Dependent Abuse policy (based on PC § 368.6) should be included.

Agency Chief Executive

The chief executive's responsibilities shall include, but are not limited to, the following:

- Taking leadership within the agency and in the community, including speaking publicly in major cases of senior and disability victimization. This will ensure the agency's support for the victims and their families and for others in the community who are terrorized and traumatized by similar crimes. It will serve to encourage victims and witnesses of similar past or future crimes to report those crimes to law enforcement.
- Developing and including agency protocols when the policy is adopted or revised.

> ***Agency protocol:*** means a procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to carry out a particular agency responsibility effectively and accountably.

- Ensuring that all agency personnel carry out their responsibilities as described in the policy and provide appropriate training
- A statement of the chief executive's responsibilities shall be included in the agency's policy.

Agency Protocols

Agency protocol is a procedure adopted by a local law enforcement agency consistent with the agency's organizational structure, stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility. (The required agency protocols are listed in the Required Policy Appendix)

Agencies typically assign personnel to specific roles and responsibilities in relation to adherence to the organization's policy and identified protocols. For each agency protocol regarding elder and dependent abuse, agencies shall list the entity or entities responsible for the implementation of those protocols.

Specified Agency Staff - Identification of Roles and Responsibilities

For each agency protocol, agencies are required to identify a specific title-by-title list of officer responsibilities, or a specific office or unit in the law enforcement agency with the responsibilities for implementing the protocol (POST has identified it as "specified agency staff" in this document).

The agency policy shall identify the unit(s) or office(s), and title(s)of officer(s), and any specified agency staff tasked with the following responsibilities:

- Attending advanced officer training on senior and disability victimization, available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources.
- Acting as a liaison to other responsible agencies to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations.
- Reaching out to the public and senior and disability communities to encourage prevention and reporting of senior and disability victimization.

Agency personnel shall comply with the requirements set forth in the training section of this document.

Policy Dissemination

Each agency shall develop a protocol for transmitting and periodically retransmitting the policy, along with any related orders to agency personnel. The agency shall include a simple and immediate way for personnel to access the policy in the field when needed.

> ***Recommendation:*** The agency should provide readily available access to an electronic copy or, if unavailable, a printed/hard copy of the policy for reference.

Policy updates shall be made available to the state protection and advocacy agency, Disability Rights California, *https://www.disabilityrightsca.org*, upon request.

Adherence to Policy

Agency personnel shall be familiar with the policy and carry out the policy at all times. Agencies are required to do the following:

- Protocols shall be developed and implemented related to providing copies of the report to the alleged victim and reporting parties.
- Reports shall be retained and remain on file for a minimum of five years.
- Reports shall be made available to the state protection and advocacy agency, Disability Rights California, https://www.disabilityrightsca.org upon request.

Exception to the Policy

- An exception to the policy may be authorized by unusual compelling circumstances determined by the agencies' chief executive or by another supervisory or command-level officer designated by the chief executive.
- The supervisor who makes the determination to allow the deviation shall produce a report for the chief executive detailing the unusual compelling circumstance. The policy shall include an agency protocol for providing copies of those reports to the alleged victims and reporting parties. The chief executive shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency, Disability Rights California, upon request.

Agency Liaison

The agency is required to identify an agency liaison (specified agency staff) to other responsible agencies to increase cooperation and collaboration, conduct outreach to the senior and disability communities, and develop prevention strategies for the public that encourage reporting. Some counties have developed multi-disciplinary team forensic centers to help agencies with case examination, documentation, consultation, and prosecution of elder and dependent abuse cases. If your agency or county does not have a similar resource, see the appendix for exemplary programs.

The agency shall develop protocols for cooperating and collaborating, whenever possible or appropriate, with the local District Attorney's Office, State Attorney General's Office, Division of Medical Fraud and Elder Abuse, other state law enforcement agencies with jurisdiction, adult and child protective services, and long-term care ombudsman programs. ***Agencies are required at a minimum to include this protocol in the Appendix of their policy.*** Agencies are also required to include relevant content of any Memoranda of Understanding or similar agreements or procedures for cooperating with other responsible agencies, consistent with PC § 368.5.

Mandatory Investigation

Officers are required to investigate every report of senior and disability victimization, and not dismiss any reports as merely civil matters or for any other reason without an investigation. See Required Policy Appendix for the minimum required elements of the investigation.

Arrest Policy

Agencies shall develop a protocol for arrests of crimes related to senior and disability victimization other than domestic violence. The protocol shall include, but not be limited to, the following requirements:

- In the case of a senior and disability victimization committed in an officer's presence, which includes a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
- In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

In the case of a misdemeanor not committed in the officer's presence, to include misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, the agency shall seek an arrest warrant based on probable cause to protect the safety of the victim or others.

- The policy shall state the agency protocol for seeking arrest warrants based on probable cause for crimes which no arrest has been made.

The arrest policy should include a statement to make arrests or to seek arrest warrants in accordance with PC § 836 and in the case of domestic violence, in accordance with PC § 13701.

> ***Recommendation:*** Agencies should confer with legal counsel to determine if the arrest policy meets the mandate and does not violate any constitutional rights.

Emergency Protective Orders (EPO) and Other Protective Orders

Agencies are required to develop protocols for seeking emergency protective orders by phone, pursuant to Family Code (FC) §6250, The protocol shall include the specific contact information for law enforcement when needing to obtain an EPO. For reference, see *San Diego County Elder and Dependent Abuse Blueprint,* Addendum F. Refer to the Resources section for the website link.

Removal of Firearms

Agencies shall require the following:

- Upon verification that a relevant protective order has been issued, law enforcement personnel shall make reasonable efforts to determine if the order prohibits the possession of firearms or requires the relinquishment of firearms.
- Law enforcement personnel shall make reasonable efforts to determine if the restrained person possesses a firearm(s) by asking the individual and conducting a query through the California Law Enforcement Telecommunications System (CLETS) to determine if any firearms are registered to the restrained person.
- Law enforcement personnel receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.

For exemplar language, see *San Diego County Elder and Dependent Abuse Blueprint,* page 9 and Addendum G. Refer to the Resources section for the direct link to the document.

First Responders Responsibilities

Interviews

Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons. Agencies should recognize that some elders, and individuals with cognitive or communication disabilities, may have difficulty narrating events, can appear to be poor historians, or lack short-term memory. Officers should consider that these factors add to their vulnerability and therefore require officers to make special efforts to provide them with equal protection. Interview requirements include the following:

- Agencies shall develop a list of appropriate techniques for interviewing potential victims and witnesses with cognitive or communication disabilities, including but not limited to, avoiding repeated interviews whenever possible. ***(Agencies are required at a minimum to include this protocol in the Appendix of their policy.)***
- Agencies shall develop a procedure to follow when interviewing people with cognitive and communication disabilities until officers, or staff of other responsible agencies, with more advanced training, are available. ***(Agencies are required at a minimum to include this protocol in the Appendix of their policy)***
- Any officer who is assigned to investigate an incident and intends to interview a victim or a witness who reports or demonstrates deafness or hearing loss shall first secure the services of an interpreter as defined in Evidence Code (EC) § 754. Refer to Definitions and Reference section for the definition of EC § 754.
- Agencies shall develop a protocol for securing the services of an interpreter to ensure accurate interpretation.

As reference, see the *San Diego County Elder and Dependent Abuse Blueprint,* Addendum B, and/or the University of California-Elder Abuse Guide for Law Enforcement (EAGLE), Interviewing Older Adults. Refer to the Resources section for the links to the documents.

Preliminary Investigation

Due to the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, homicides against adults and children with disabilities including disabilities caused by advanced age, and including crimes often committed by caretakers, investigations must be thorough and look beyond the obvious. Law enforcement personnel shall investigate every incident of senior and disability victimization to determine credibility. Law enforcement personnel shall not dismiss the validity of the incident for any reason prior to first investigating.

Agencies shall use the full term "elder and dependent adult abuse" in every reference to the crime (PC § 368), with no shorthand terms, including but not limited to, "elder abuse" or "adult abuse." This does not prevent an officer from using a short term when a specific victim fits the term, e.g., "elder abuse", when the victim is, in fact, an elder.

For an example, see the *San Diego County Elder and Dependent Abuse Blueprint,* pages 2-3, and Addendum A. Refer to the Resources section for the link to the document.

Hate Crimes

Recognize that elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime.

A consideration of PC § 422.87 should be made when determining if there is any indication the perpetrator committed the criminal act because of bias or bias motivation. Refer to Definition section for the definition of Bias Motivation and Disability Bias.

Domestic Violence

Law enforcement personnel should recognize that some domestic violence crimes are also senior and disability victimization crimes. This violation is subject to mandatory arrest requirements of PC § 836 if the elements described in PC § 273.5 are met, including, but not limited, to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with the victim.

Agencies shall include a statement in their policy to make arrests or to seek arrest warrants in accordance with PC § 836 and in the case of domestic violence, as allowed by PC § 13701. The policy shall also state the agency protocol for seeking those arrest warrants.

Sex Crimes

Law enforcement personnel should recognize victims of sexual assault and other sex crimes may delay disclosing the crimes for reasons including, but not limited to, shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others. Pursuant to PC § 264.2, Business and Professions Codes §§ 729 and 679.04, potential victims of sex crimes shall be notified they have a right to a support person of their choice present at all times. This instruction shall be included in the protocols.

First Responders Checklist

The agency is required to develop a first responder checklist list that shall include, but not be limited to, all of the following:

- Take responsibility for the safety and well-being of the potential victims and witnesses, and treat all potential victims, witnesses, and suspects with dignity and respect.
- Comply with agency arrest policy including seeking arrest warrants.
- Comply with agency protocols for seeking an EPO and enforcement of protective orders.
- Follow policy guidelines for interviewing persons with cognitive or communication disabilities.
- Recognize some elders, and individuals with cognitive or communication disabilities, may have difficulty narrating events, can appear to be poor historians, or lack short-term memory. Considering these factors may add to their vulnerability and therefore requires law enforcement personnel to make special efforts to provide them with equal protection.
- Document the scene.
- Obtain signed medical release from potential victim.

- Interview a caretaker separately and recognize that in some cases the caretaker is the perpetrator.
- Recognize that victim cooperation is sometimes unnecessary for prosecution. In some cases, allowing a victim the option of preventing prosecution creates an opportunity for the perpetrator to obstruct justice by pressuring or threatening the victim. Each dispatch call or case should be investigated on its own evidential merits.
- Avoid repeated interviews whenever possible.
- Take other actions necessary to comply with the provision of the policy.

In cases where a signed medical release is sought, officers should obtain a signed medical release from a victim only if the officer is satisfied that the potential victim possesses the cognitive ability to understand such a document.

For an example, see the *University of California-Elder Abuse Guide for Law Enforcement (EAGLE), First Responder Checklist.*

Suspicious Death/Homicide

Agency policy shall include a requirement that all officers treat an unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability as a potential homicide until a complete investigation is accomplished, including an autopsy. Law enforcement shall not assume the death of an elder or person with a disability is natural simply because of age or disability of the deceased.

> ***Recommendation:*** Refer to agency policy related to unexplained and suspicious deaths taking into consideration that it may also have an elder and dependent adult abuse component.

Cross Reporting Requirements

Agencies are required to identify and include in the policy the agency's cross-reporting requirements pursuant to WIC § 15640 and the protocol for carrying out the agency's cross-reporting requirements. There are multiple agencies that care for the health, well-being, and advocacy of the elderly and disabled adults and children, some of these can include:

- Adult Protective Services (APS) or the Ombudsman
- Licensing for health care practitioners
- Licensing for health facilities
- Department of Justice (DOJ) for unlicensed facilities

Refer to Definition and Reference section for explanation of cross reporting requirements.

- As an example, see the *San Diego County Elder and Dependent Abuse Blueprint* pages 6-7 and Addendum G. Refer to the Resources section for the link.

Mandated Reporting Requirements

Agencies shall identify and include in the policy the officer's mandated reporting responsibilities and develop an agency protocol for carrying out the officer's mandated reporting responsibilities. Refer to the Definition section for mandated reporting requirements.

Failure to report, or impeding or inhibiting a report, is a misdemeanor and punishable by not more than six months in the county jail, by a fine, or by both a fine and imprisonment. If the failure to report results in death or great bodily injury, it increases the punishment. Refer to the Definition section for Mandated Reporter-Failure to Report.

- For an example, see the *San Diego County Elder and Dependent Abuse Blueprint* pages 6-7 and Addendum G. Refer to the Resources section for the link.

Investigator's Responsibilities

Due to the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicides against adults and children with disabilities including disabilities caused by advanced age, and including crimes often committed by caretakers, investigations must be thorough and look beyond the obvious. Law enforcement agencies retain exclusive responsibility for criminal investigations. Adult Protective Services and local long-care ombudsman program may assist local law enforcement agencies with the investigation upon request.

Agencies should strive to build greater cooperation and collaboration among law enforcement agencies and other agencies with overlapping responsibilities for response to, and investigation of, these crimes. Additionally, agencies should create strategies to ensure the appropriate investigation entity works in conjunction with Adult Protective Services as described in WIC § 15650. Protocols shall be developed to ensure victims are provided with civil remedies and resources that are available, including, but not limited to, the program administered by the California Victim Compensation Board.

Elements of the Investigation

Agencies are required to develop protocols for the elements of the investigation including, but not limited to, the following:

- Checking for prior reports with the agency, Adult Protective Services agencies, local long-term care ombudsman programs except as provided in WIC § 9725, and other responsible agencies.
- Interviewing each alleged victim, each witness, and each available suspect.
- Viewing all body-worn camera videos and all other media.
- Listening to all recorded telephone calls from mandated reporters or other callers.
- Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

Agencies at a minimum are required to include the Elements of Investigation protocol in the Appendix of their policy.

- If the agency deems appropriate, the Investigation Response section of the below listed documents can be included in the agency's appendix.
  - ▹ *San Diego County Elder and Dependent Abuse Blueprint* -Addendum B
  - ▹ *University of California-Elder Abuse Guide for Law Enforcement* (EAGLE)

Refer to the Resources section of this document for links to both the EAGLE Program and the San Diego Elder and Dependent Abuse Blueprint.

Case Submission

Agencies shall develop a protocol for transmitting the crime report to the appropriate prosecution office if law enforcement recommends prosecution.

Agencies are required at a minimum to include the Case Submission protocol in the appendix of its policy.

Training

Training is the primary means of providing current and updated information to agency employees. Protocols shall be established to identify staff to be trained and how the training will be scheduled. For those assigned to investigate crimes related to elder and disability abuse, training is required. The training needs to include current POST-approved training related to elder and disability abuse and the agency policy.

Protocols shall be developed for training agency dispatchers, community service officers, front desk personnel, and other civilian personnel who may interact with the public. The agency protocol shall require minimum training requirements for the category of agency personnel identified in the *Specified Agency Staff Training Recommendations and Requirements* chart below and any additional training based on the agency policyy.

Specified agency staff means any agency executive, command staff, sworn personnel, civilian personnel, and others who are employed by, or volunteer services to the agency when tasked with the specified roles and responsibilities regarding protocol implementation of elder and dependent adult abuse policy.

Specifics training requirements and recommendations are listed below:

Specified Agency Staff Training Recommendations and Requirements

MANDATE	REQUIRED FOR SPECIFIC AGENCY STAFF	RECOMMENDED FOR	PENAL CODE SECTION	MINIMUM HOURS
Elder and Dependent Adult Abuse	Every city police officer, deputy sheriff at supervisory level or below who is assigned field or investigative duties shall complete within 18 months of assignment	Specified agency staff	13515	2
Mental Illness and Developmental Disabilities	Specified agency staff	Peace officers	13515.25	8
Law Enforcement Interaction with Persons with Mental Illness, Intellectual Disability, and Substance Use Disorders.	Specified agency staff	Law enforcement officer, at supervisory level or below who is assigned to patrol or assigned to supervise those officers	13515.27	3
Crisis Intervention Behavioral Health Training (CIBHT)	Field training officer	Specified agency staff	13515.28	8
Mental Health Update	Field training officer	Specified agency staff	13515.29	4
Training Assessment LD 37 & FTO Program	POST	N/A	13515.295	N/A
Investigations within Mental Health Facilities and Development Centers	Law enforcement personnel working for agencies with jurisdiction over state mental hospitals	Specified agency staff	13515.30	DVD
Autism Recognition and Response	Specified agency staff	Peace officers who are first responders to emergency situations	13515.35	DVD
Persons with Disabilities (LD 37)	Basic Academy		13519.2	15

REQUIRED POLICY APPENDIX

There shall be an Appendix to the policy describing the requirements of these types of investigations. The Appendix shall include but is not limited to the following listed items.

- The agency protocol(s) for cooperating and collaborating whenever possible with the Division of Medi-Cal Fraud and Elder Abuse, other state law enforcement agencies with jurisdiction, adult and child protective services, long-term care ombudsman programs, and other agencies.
- The list of appropriate techniques for interviewing potential victims and witnesses with cognitive or communication disabilities, including but not limited to avoiding repeated interviews whenever possible.
- The elements of an investigation, including, but not limited to, the following:
  - ▹ Checking for prior reports with the agency, Adult Protective Services agencies, local long-term care ombudsman programs (except as provided in WIC § 9725) and other responsible agencies.
  - ▹ Interviewing each alleged victim, each witness, and each available suspect.
  - ▹ Viewing all body-worn camera videos, films and all other media.
  - ▹ Listening to all recorded telephone calls from mandated reporters or other callers.
  - ▹ Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.
- The agency protocol for transmitting the crime report to the appropriate prosecution office if the law enforcement agency recommends prosecution.

If the agency deems it appropriate, the Investigation Response section and Addendum B of the San Diego County Elder and Dependent Adult Abuse Blueprint or the Elder Abuse Guide for Law Enforcement of the National Center on Elder Abuse at the University of Southern California may be added to the appendix.

DEFINITIONS and REFERENCES

Mandated Penal Code sections that shall be Included in the agency policy pursuant to PC § 368.5:

Elder or Dependent Adult Abuse: Pursuant to PC § 368(c) and (f).
PC § 368 (c) A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed two thousand dollars ($2,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

PC § 368 (f) A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Lewd Act by a Caretaker: A violation of PC § 288 (b)(2).
A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

See also PC § 288 (c)(2) non-force.

Note: these sections protect many persons with disabilities regardless of the fact they live independently.

For Reference, may be included as an addendum to the policy:

These definitions are provided, as the terms are used in this guideline and are referenced in PC §§ 368.5-368.6.

Agency Protocol: A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to carry out a particular agency responsibility effectively and accountably.

Agency Staff: Any agency executive, command staff, sworn personnel, civilian personnel, and others who are employed by, or volunteer services to, the agency.

Specified Agency Staff: Any agency executive, command staff, sworn personnel, civilian personnel, and others who are employed by, or volunteer services to the agency, when tasked with the specified roles and responsibilities regarding protocol implementation of elder and dependent adult abuse policy.

Bias Motivation: Pursuant to PC § 422.87
(3)(A) Information regarding bias motivation.

(B) For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

(C) (i) In recognizing suspected disability-bias hate crime, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

(ii) In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable

and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

See Disability Bias in the Reference section for additional information

Caretaker: Pursuant to PC § 368.6 means a person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult (defined in PC § 368). It includes caretakers whether or not they are paid.

Cross Reporting Pursuant to WIC § 15640

(a) (1) An adult protective services agency shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case any known or suspected instance of criminal activity, and to any public agency given responsibility for investigation in that jurisdiction of cases of elder and dependent adult abuse, every known or suspected instance of abuse of an elder or dependent adult pursuant to Sections 15630, 15630.1, or 15630.2. A county adult protective services agency shall also send a written report thereof within two working days of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision. Prior to making any cross-report of allegations of financial abuse to law enforcement agencies, an adult protective services agency shall first determine whether there is reasonable suspicion of any criminal activity.

(2) If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that they are required to make the report to the long-term care ombudsman program or to a local law enforcement agency. The adult protective services agency shall not accept the report by telephone but shall forward any written report received to the long-term care ombudsman.

(b) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this subdivision shall remain confidential and shall not be disclosed.

(c) A local law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the long-term care ombudsman program when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder

and dependent adult abuse every known or suspected instance of abuse of an elder or dependent adult. A local law enforcement agency shall also send a written report thereof within two working days of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(d) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives their consent. A long-term care ombudsman program and the Licensing and Certification Division of the State Department of Public Health shall immediately report by telephone and in writing within two working days to the bureau any instance of neglect occurring in a health care facility that has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical well-being of a patient in that facility. If a victim or potential victim of the neglect withholds consent to being identified in that report, the report shall contain circumstantial information about the neglect, but shall not identify that victim or potential victim. The bureau and the reporting agency shall maintain the confidentiality of the report until the report becomes a matter of public record.

(e) When a county adult protective services agency, a long-term care ombudsman program, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.

(f) County adult protective services agencies, long-term care ombudsman programs, and local law enforcement agencies shall report the results of their investigations of referrals or reports of abuse to the respective referring or reporting agencies.

Dependent Adult: Pursuant to PC § 368.6, a person, regardless of whether the person lives independently, who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activity or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent adult includes a person between the ages of 18-64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250,1250.2 and 1250.3 of the Health and Safety Code. (Defined in PC § 368)

Dependent Person: Pursuant to PC § 368.6, a person, regardless of whether the person lives independently, who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. "Dependent person" includes a person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code. (Defined in PC § 288)

Disability: Pursuant to PC § 368.6, a mental disability and physical disability whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, illness, or advanced age. (As defined in §§ 12926 and 12926.1 of the Government Code)

> ***Mental Disability:*** Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that

limits a major life activity. In addition, any other mental or psychological disorder or condition not described that requires special education or related services.

Physical disability includes, but is not limited to, the following:

- Physiological disease
- Physiological disorder
- Physiological condition
- Cosmetic disfigurement
- Anatomical loss

Anatomical loss includes, but is not limited to the following:

- Affects one or more of the following body systems
  - ▹ neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine. Limits a major life activity, as defined in Government Code § 12926 .

Physical and mental disabilities include, but are not limited to, chronic or episodic conditions such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. In addition, the Legislature has determined that the definitions of "physical disability" and "mental disability" under the law of this state require a "limitation" upon a major life activity, but do not require, as does the federal Americans with Disabilities Act of 1990, a "substantial limitation." This distinction is intended to result in broader coverage under the law of this state than under that federal act. Under the law of this state, whether a condition limits a major life activity shall be determined without respect to any mitigating measures, unless the mitigating measure itself limits a major life activity, regardless of federal law under the Americans with Disabilities Act of 1990. Further, under the law of this state, "working" is a major life activity, regardless of whether the actual or perceived working limitation implicates a particular employment or a class or broad range of employments.

Disability Bias: In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations. In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity. Reference POST Hate Crime Model Policy.

Domestic Violence: : Pursuant to PC § 368.6 domestic violence is abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as spouses, (5) the continuity of the relationship, and (6) the length of the relationship. (Defined in PC § 13700) (See also FC § 6211)

- A violation of PC § 273.5 would meet this definition.

Elder: Pursuant to PC § 368.6 a person who is 65 years of age or older as defined in PC § 368.

Elder and Dependent Adult Abuse: : Pursuant to PC § 368.5 (modified by SB 1123 which supersedes the modification of SB 338), as a guideline to investigators and first responders, the definition of elder and dependent adult abuse is defined as "physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering, deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering, and financial abuse.".

The definitions are listed below:

> ***Abandonment:*** Pursuant to WIC § 15610.05, "abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.
>
> ***Abduction:*** : Pursuant to WIC § 15610.06, "abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.
>
> ***Financial abuse:*** Pursuant to WIC § 15610.30
>
> (a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:
>
> (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
>
> (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
>
> (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.
>
> (b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes,

appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

(1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.

(2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Goods and Service Necessary to Avoid Physical Harm or Mental Suffering: : Pursuant to WIC § 15610.35, include, but are not limited to, all of the following:

(a) The provision of medical care for physical and mental health needs.

(b) Assistance in personal hygiene.

(c) Adequate clothing.

(d) Adequately heated and ventilated shelter.

(e) Protection from health and safety hazards.

(f) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(g) Transportation and assistance necessary to secure any of the needs set forth in subdivisions (a) to (f), inclusive.

Isolation: Pursuant to WIC § 15610.43, "Isolation" means any of the following:

(1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(3) False imprisonment, as defined in Section 236 of the Penal Code.

(4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

These acts would not be considered isolation if the physician or surgeon who is caring for the elder

or dependent adult, at the time, gives the instructions as part of medical care.

These acts shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

Abandonment, isolation, and abduction may be used to locate and evaluate evidence to build the probable cause, which is progressive, look at the totality of the facts and circumstances.

Mental Suffering: Pursuant to WIC § 15610.53, fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult.

Neglect: Pursuant to WIC § 15610.57, means either of the following:

(1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

(2) The negligent failure of an elder or dependent adult to exercise that degree of self-care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

Physical Abuse: Pursuant to WIC § 15610.63, means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

Hate Crime: Pursuant to PC § 368.6, a hate crime has the same meaning as PC §§ 422.55 and 422.56. A criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: disability, gender, nationality, race or ethnicity, religion, sexual orientation. Association with a person or group with one or more of these actual or perceived characteristics. (Defined in PC § 422.55) "Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the grounds owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs (1) to (6), inclusive, of subdivision (a) of PC § 422.56. (b) "Disability" includes mental disability and physical disability as defined in Section 12926 of the Government Code regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness. This definition is declaratory of existing law. (Defined in PC § 422.56)

Human trafficking: Pursuant to PC § 368.6 human trafficking is a violation of PC § 236.1.

(a) A person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars ($500,000).

(b) A person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of PC sections 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is

guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars ($500,000).

(c) A person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of sections 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking.

Interpreters for the Deaf or Hard of Hearing: Pursuant to EC § 754: Whenever a peace officer or any other person having a law enforcement or prosecutorial function in a criminal or quasi-criminal investigation or non-court proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing loss, a good faith effort to secure the services of an interpreter shall be made without any unnecessary delay, unless either the individual who is deaf or hard of hearing affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the Federal Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which the action is pending.

Local Law Enforcement Agency: Pursuant to PC § 368.6 means every municipal police department and county sheriff's department.

Mandated Reporting Requirements: As described in the Child Abuse and Neglect Reporting Act commencing in PC § 11164 and Elder Abuse and Dependent Adult Civil Protection Act pursuant to WIC §§ 15630, 15630.1 and 15640(d).

Mandated Reporter Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in WIC § 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in § 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of § 15630 discovers the offense.

Policy Manual: means any general orders, patrol manual, duty manual or other written document or collection of documents that provides field or investigative personnel with policies, procedures, or guidelines for responding to or investigation crimes, complaints, or incidents.

Senior and Disability Victimization: Pursuant to PC § 368.6, any of the following: elder and dependent abuse; unlawful interference with a mandated report; homicide of an elder; dependent adult; or other adult and children with disabilities; sex crimes against elders, dependent adults, or other adults and children with disabilities; child abuse of children with disabilities; violation of relevant protective orders; hate crimes against persons with actual or perceived disabilities including, but not limited to, disabilities

caused by advanced age, or associated with them; and domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age.

Relevant Protective Order: Pursuant to PC § 368.6, an order by a California or out- of-state court, including, but not limited to, a tribal, federal, United States territorial, or United States military court, protecting an elder, dependent adult, dependent person, or other adult or child with a disability.

Responsible Agency: Pursuant to PC § 368.6, local, state, or federal agency with the responsibilities concerning senior and disability victimization. This includes, but not limited to, law enforcement agencies, adult protective services agencies, child protective services agencies, the office of the State Long-Term Care Ombudsman and its designated local authorities, fire and emergency medical services, regional centers pursuant to the Lanterman Development Disabilities Services Act, elder

and disability services agencies, sexual assault and domestic violence agencies, elder and dependent adult death review teams, local government human relations commissions, coroners, probate court investigators, public administrators, public guardians, public conservators, district attorney offices, city attorney offices or other prosecutors with jurisdiction, the Division of Medi-Cal Fraud and Elder Abuse, state licensing agencies, the United States Attorney's offices, and the Federal Bureau of Investigation.

Sex Crime: Pursuant to PC § 368.6, an offense requiring registration pursuant to the Sexual Offender Registration Act -or- a violation of § 729 of the Business and Professions Code.

State Protection and Advocacy Agency: Pursuant to PC § 368.6, the agency designated pursuant to Division 4.7 (commencing with § 4900) of the WIC (Currently Disability Rights California).

Unlawful Interference in a Mandated Report: Pursuant to PC § 368.6 includes, but is not limited to, inhibiting or impeding reporting in violation of the mandated reporting requirements or a violation of PC § 136.1 that concerns the mandated reporting requirements.

RESOURCES

The following resources may be used to develop agency protocols and may be utilized as documents for the appendix:

San Diego Elder and Dependent Abuse Blueprint (with addendums):

https://www.sdcda.org/content/helping/elder-abuse-blueprint.pdf

University of California Eagle Program Resources:

https://eagle.usc.edu

United States Department of Justice Resources:

https://www.justice.gov/elderjustice/eagle-elder-abuse-guide-law-enforcement

https://www.justice.gov/elderjustice